

INSTITUTION	FCI OTISVILLE	INCIDENT REPORT NUMBER	1429063		
INMATE NAME	ROSARIO, Jorge	REG NO	25115-038	UNIT	EB
DATE OF INCIDENT	02/01/06	DATE OF INCIDENT REPORT	02/01/06		
OFFENSE CODE(S)	104A				
SUMMARY OF CHARGES	Possession or Manufacture of a Weapon (Attempted)				
I. NOTICE OF CHARGE(S)					
A. Advanced written notice of charge (copy of Incident Report) was given to inmate on (date) 02/01/06 at (time) 1638 (by staff member) T. Halliday, Lt.					
B. The DHO Hearing was held on (date) 03/07/06 at (time) 1321					
C. The inmate was advised of his/her rights before the DHO by (staff member):					
A. Timins, Counselor on (date) 02/06/06 and a copy of the advisement of rights form is attached.					
II. STAFF REPRESENTATIVE					
A. Inmate waived right to staff representative.		Yes:	X	No:	
B. Inmate requested staff representative and N/A appeared.					
C. Requested staff representative declined or could not appear but inmate was advised of option to postpone hearing to obtain another staff representative with the result that: N/A					
D. Staff representative		N/A		was appointed.	
E. Staff representative statement:					
N/A					
III. PRESENTATION OF EVIDENCE					
A. Inmate admits	X	denies		the charge(s).	
B. Summary of inmate statement:					
I just moved in the cell two weeks ago. I can't deny he found it there.					
C. Witness(es):					
1. The inmate requested witness(es).		Yes:		No:	X
2. The following persons were called as witnesses at this hearing and appeared. (Include each witnesses' name, title, reg number and statement as appropriate.)					
N/A					
3. The following persons requested were not called for the reason(s) given.					
N/A					
4. Unavailable witnesses were requested to submit written		Yes		No	N/A X

D. Documentary Evidence: In addition to the Incident Report and Investigation, the DHO considered the following documents:

N/A

E. Confidential information was used by DHO in support of his findings, but was not revealed to the inmate. The confidential information was documented in a separate report. The confidential information has been (confidential informants have been) determined to be reliable because:

N/A

IV. FINDINGS OF THE DHO

A. The act was committed as charged.

X B. The following act was committed: 305

C. No prohibited act was committed: Expunge according to Inmate Discipline PS.

V. SPECIFIC EVIDENCE RELIED ON TO SUPPORT FINDINGS (Physical evidence, observations, written documents, etc.)

The DHO finds on February 1, 2006, you were in possession of anything not authorized.

Specific evidence relied on to support this finding is the incident report written by Officer Resto. He states on February 1, 2006, at approximately 1:45 p.m., he conducted a shakedown of your cell, 401 of Unit EB. He discovered an 8" piece of steel rod inside of your locked locker. The DHO also considered your admission.

Based on the incident report and your admission, the DHO finds you have committed Prohibited Act 305 - Possession of Anything not Authorized. This code was changed from 104 as it is more appropriate.

VI. SANCTION OR ACTION TAKEN

30 Days Disciplinary Segregation - Suspended Pending 180 Days Clear Conduct

VII. REASON FOR SANCTION OR ACTION TAKEN

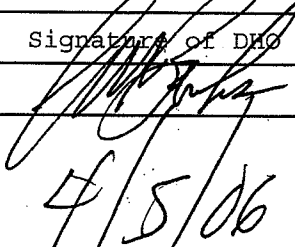
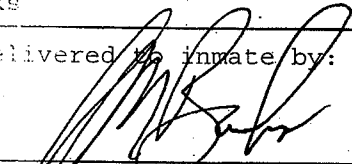
Possession of Anything Not Authorized with a Bureau of Prisons' facility will not be tolerated. It frustrates staff and hampers them in the performance of their duties, thereby, jeopardizing the security and orderly running of the institution.

Suspended Disciplinary Segregation time will hopefully assist in modifying your future behavior. The sanction imposed is to punish you for your actions and to deter you and others from such behavior in the future.

VIII. APPEAL RIGHTS: The inmate has been advised of the findings, specific evidence relied on, action and reasons for the action. The inmate has been advised of his right to appeal this action within 20 calendar days under the Administrative Remedy Procedure. A copy of this report has been given to the inmate.

Yes	X	No
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IX. DISCIPLINE HEARING OFFICER

Printed Name of DHO	Signature of DHO	Date
J. M. Banks		5/30/06
Report delivered to inmate by:	DATE	TIME
	4/5/06	4:30 pm

(This form may be replicated in WP)

Replaces BP-304(52) of JAN 88

REGISTER NO.: 25115-038 NAME... ROSARIO REPORT NO: 1429063
FUNCTION... : ADD HEARING DATE/TM: 02-08-2006 0801 HEAR TYPE: DHO
UDC/CDC LOC.: DHO/CHAIRPERSON: BANKS J.M. HEAR FACI: OTV
AVAIL SGT...: AVAIL GCT.....: REHEARING: N
STATUS.....: PEND UDC AVAIL NVGCT.....: ABSENTIA.: N
REPORT RMKS. (NEED PICTURE OF PIECE OF METAL)

ACT: SANC: AMT: / FREQ: ATI.: RFP.:
CMP: LAW: RMK: (CS/CC: SUSP: DAYS)
ACT: SANC: AMT: / FREQ: ATI.: RFP.:
CMP: LAW: RMK: (CS/CC: SUSP: DAYS)
ACT: SANC: AMT: / FREQ: ATI.: RFP.:
CMP: LAW: RMK: (CS/CC: SUSP: DAYS)

G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

1. NAME OF INSTITUTION

FCI OTV

PART I - INCIDENT REPORT

2. NAME OF INMATE

Rosario, Jorge

3. REGISTER NUMBER

25115-038

4. DATE OF INCIDENT

01 Feb 06

5. TIME

145P

6. PLACE OF INCIDENT

cell #401 unit EB

7. ASSIGNMENT

FS4 PMCK

8. UNIT

EB

9. INCIDENT

Possession, manufacture of a weapon.

10. CODE

104a

11. DESCRIPTION OF INCIDENT (Date: 1 Feb 06 Time: 145P Staff became aware of incident)

while conducting a shakedown of cell #401 in unit EB I found a steel rod approximately 8 inches long hidden in the locked locker of inmate Rosario, Jorge register number 25115-038. The rod was hidden in the steel lip of the wall locker. Item secured and sent to the LT's office.

12. SIGNATURE OF REPORTING EMPLOYEE

DATE AND TIME

13. NAME AND TITLE (Printed)

01 Feb 06 230P

RESTO, Jorge senior officer

14. INCIDENT REPORT DELIVERED TO ABOVE INMATE BY

15. DATE INCIDENT REPORT DELIVERED

2-1-06

16. TIME INCIDENT REPORT DELIVERED

438pm

PART II - COMMITTEE ACTION

17. COMMENTS OF INMATE TO COMMITTEE REGARDING ABOVE INCIDENT

The report is false but I am not guilty - I was in there and I did not search the cell when I was in

18. A. IT IS THE FINDING OF THE COMMITTEE THAT YOU:
COMMITTED THE FOLLOWING PROHIBITED ACT.

DID NOT COMMIT A PROHIBITED ACT.

B. ☒ THE COMMITTEE IS REFERRING THE CHARGE(S) TO THE DHO FOR FURTHER HEARING. ☒ THE COMMITTEE ADVISED THE INMATE OF ITS FINDINGS AND OF THE RIGHT TO FILE AN APPEAL WITHIN 15 CALENDAR DAYS.

19. COMMITTEE DECISION IS BASED ON THE FOLLOWING INFORMATION

It's investigation and the report was valid - Inmate's claim of not being guilty and did not search his cell & was his report that was - Inmate must be held responsible for items in his locker

20. COMMITTEE ACTION AND/OR RECOMMENDATION IF REFERRED TO DHO (CONTINGENT UPON DHO FINDING INMATE COMMITTED PROHIBITED ACT)

Loss of GCT - 30 days D/S suspended 90 days - 90 days Telephone Restriction to deter future behavior

21. DATE AND TIME OF ACTION

02 Feb 06 1530h (THE UDC CHAIRMAN'S SIGNATURE NEXT TO HIS NAME CERTIFIES WHO SAT ON THE UDC AND THAT THE COMPLETED REPORT ACCURATELY REFLECTS THE UDC PROCEEDINGS.)

Member (Typed Name)

23. Inmate Advised Of Right To Remain Silent: You Are Advised Of Your Right To Remain Silent At All Stages Of The Disciplinary Process But Are Informed That Your Silence May Be Used To Draw An Adverse Inference Against You At Any Stage Of The Institutional Disciplinary Process. You Are Also Informed That Your Silence Alone May Not Be Used To Support A Finding That You Have Committed A Prohibited Act.

The Inmate Was Advised Of The Above Right By HALLIDAY, LIEUTENANT (Date/time) 02-01-06 4:38PM

24. Inmate Statement And Attitude On February 1, 2006, Inmate Rosario #25115-038 was read his rights and he stated that he understood by saying yes. Inmate did receive a copy of the incident report. Inmate stated that he just moved into that cell on January 17, 2006 and he did not know that rod was there. Inmate Rosario denied hiding the rod in the locker.

Inmate displayed a good attitude.

25. Other Facts About The Incident, Statements Of Those Persons Present At Scene, Disposition Of Evidence, Etc.
Inmate did not request witnesses.

26. Investigator's Comments And Conclusions

Based on the greater weight of the incident report the code of 104A is warranted and will be forwarded to the UDC for disciplinary action.

27. Action Taken

Inmate will remain in the Special Housing Unit pending UDC hearing.

Date And Time Investigation Completed 02-01-2006 5:00pm

Printed Name/signature Of Investigator Halliday

Signature

Lieutenant
Title

CIV
InstitutionTO: ROSARIO, JorgeDATE: 2/6/06ALLEGED VIOLATION(S): possession, manufacture of a weapon (ATTEMPT)DATE OF OFFENSE: 2/1/06Reg. No.: 25715-038
Code No.: 104(A)

You are being referred to the DHO for the above charge(s).

The hearing will be held on: NEXT Avail. DATE, at _____ (A.M./P.M.) at the following location:
SPECIAL HOUSING UNIT.

You are entitled to have a full-time staff member represent you at the hearing. Please indicate below whether you desire to have a staff representative, and if so, his or her name.

I (do) _____ (do not) ☒ wish to have a staff representative.

If so, the staff representative's name is: _____

You will also have the right to call witnesses at the hearing and to present documentary evidence in your behalf; provided, calling your witnesses will not jeopardize institutional safety. Names of witnesses you wish to call should be listed below. Briefly state to what each proposed witness would be able to testify.

I (do) _____ (do not) ☒ wish to have witnesses.

NAME: _____, Can Testify to: _____

NAME: _____, Can Testify to: _____

NAME: _____, Can Testify to: _____

The Discipline Hearing Officer will call those witnesses (Staff or Inmate) who are reasonably available, and who are determined by the DHO to have information relevant to the charge(s). Repetitive witnesses and repetitive character references need not be called. Unavailable witnesses may be asked to submit written statements.

If additional space is needed, use the reverse side of this form. Date, sign, and return this form to the DHO.

DATE: 2/6/06 SIGNATURE: [Signature]Notice of hearing before DHO given inmate 2/6/06 3:20pm by ATTORNEY
Date/Time Employee Printed Name/Signature

FEDERAL BUREAU OF PRISONS

Institution: _____

As an inmate charged with a violation of Bureau of Prisons rules or regulations referred to the Discipline Hearing Officer (DHO) for disposition, you have the following rights:

1. The right to have a written copy of the charge(s) against you at least 24 hours prior to appearing before the Discipline Hearing Officer;
2. The right to have a full-time member of the staff who is reasonably available to represent you before the Discipline Hearing Officer;
3. The right to call witnesses (or present written statements of unavailable witnesses) and to present documentary evidence in your behalf, provided institutional safety would not be jeopardized;
4. The right to present a statement or to remain silent. Your silence may be used to draw an adverse inference against you. However, your silence alone may not be used to support a finding that you committed a prohibited act;
5. The right to be present throughout the discipline hearing except during a period of deliberation or when institutional safety would be jeopardized. If you elect not to appear before the DHO, you may still have witnesses and a staff representative appear on your behalf;
6. The right to be advised of the DHO's decision, the facts supporting that decision, except where institutional safety would be jeopardized, and the DHO's disposition in writing; and,
7. The right to appeal the decision of the DHO by means of the Administrative Remedy Procedure to the Regional Director within 20 calendar days of notice of the DHO's decision and disposition.

I hereby acknowledge that I have been advised of the above rights afforded me at a hearing before the Discipline Hearing Officer. I have further been advised that if I have previously received either a presumptive or effective parole date from the Parole Commission, a finding by the DHO that I committed the prohibited act(s) may result in a rescission or retardation by the Parole Commission of the presumptive or effective parole date.

Signed: _____

Inmate Signature

Reg. No.: _____

25715-038

Date: _____

2/6/06

Notice of rights given to inmate (Date/time): _____

2/6/06

3:20 pm

by: _____

Staff Printed Name/Signature